

Attorney Docket No: 5727-73535
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Harvey B. Buck, Jr. et. al.

Serial No.: Unknown

Art Unit: Unknown

Filed: Herewith

Examiner: Unknown

For: Reissue of U.S. Patent No. 6,294,062
Issued September 25, 2001
on U.S. Application Serial No. 09/330,422
Filed May 28, 1999

DECLARATION BY INVENTORS

Mail Stop Reissue
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We, Harvey B. Buck, Jr. and Eric R. Diebold, declare that we are citizens of the United States of America, and Zhi David Deng declares that he is a citizen of China; that we verily believe ourselves to be the original and first inventors of the invention described and claimed in U.S. Letters Patent No. 6,294,062 (hereinafter '062 PATENT) and in the foregoing specification and for which invention we solicit a reissue patent; that we do not know and do not believe that said invention was ever known or used in the United States of America before our invention thereof; and that we verily believe the '062 PATENT to be wholly or partly inoperative or invalid by reason of our claiming less than we had a right to claim in the '062 PATENT.

We request that we be permitted to amend the '062 PATENT and be granted a reissue patent; that errors rendering the '062 PATENT wholly or partly inoperative or invalid caused the claims of such patent to be of more narrow scope than necessary to distinguish over the prior art; and that such errors arose without any deceptive intent.

Specifically, we at least claimed less than we had a right to claim in the '062 PATENT by including in said patented claim 1 a restriction that required a liquid sample

diffusible conjugate of a ligand analog of an analyte in the liquid sample and that the conjugate be capable of competitive binding with a specific binding partner and the inclusion of a specific binding partner.

We have reviewed and understand the contents of the specification as amended herein, including patented claims 1-47, as well as new claims 48-59.

We acknowledge our duty to disclose information of which we are aware which is material to patentability as defined in Title 37, Code of Federal Regulations §1.56; and we further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application for reissue or any patent issuing thereon.

We hereby appoint William R. Coffey, Reg. No. 24023; Arland T. Stein, Reg. No. 25062; Richard D. Conard, Reg. No. 27321; Dilip A. Kulkarni, Reg. No. 27510; Richard A. Rezek, Reg. No. 30796; Paul B. Hunt, Reg. No. 37154; Jeffrey A. Michael, Reg. No. 37394; Bradford G. Addison, Reg. No. 41486; Shawn D. Bauer, Reg. No. 41603; Jill T. Powlick, Reg. No. 42088; Ronald S. Henderson, Reg. No. 43669; James R. Sweeney II, Reg. No. 45670; Christopher E. Haigh, Reg. No. 46377; Kevin D. Bailey, Reg. No. 46531; Rebecca Ball, Reg. No. 46535; Carli E. Stewart, Reg. No. 51058; Helen Geib, Reg. No. 50924; Kevin L. McLaren, Reg. No. 48351; Perry Palan, Reg. No. 26213; Mark M. Newman, Reg. No. 31472; Richard P. Krinsky, Reg. No. 47720; Richard B. Lazarus, Reg. No. 48215; Bobby B. Gillenwater, Reg. No. 31105; Gregory S. Cooper, Reg. No. 40965; Thomas J. Donovan, Reg. No. 33231; Alice O. Martin, Reg. No. 35601; Grant H. Peters, Reg. No. 35977; Daniel P. Albers, Reg. No. 44008, Sendil Devadas, Reg. No. 52425, Thomas E. Smith, Reg. No. 18243; Dennis M. McWilliams, Reg. No. 25195; James R. Sweeney, Reg. No. 18721; William M. Lee, Jr., Reg. No. 26935; Glenn W. Ohlson, Reg. No. 28455; David C. Brezina, Reg. No. 34128; Jeffrey R. Gray, Reg. No. 33391; Gerald S. Geren, Reg. No. 24528; Robert F.I. Conte, Reg. No. 20354; Timothy J. Engling, Reg. No. 39970; Howard B. Rockman, Reg. No. 22190; Peter J. Shakula, Reg. No. 40808; Mark A. Hagedorn, Reg. No. 44731; and Mark J. Nahnsen, Reg. No. 51093, as our attorneys of record with full power of substitution and

revocation, to prosecute this application, and to transact all business in the Patent and Trademark Office connected therewith; and we specify that communications regarding this application to reissue be directed to:

Bradford G. Addison, Esq.
BARNES & THORNBURG
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INVENTORS

Date

Harvey B. Buck, Jr.
8147 Bay Brook Drive
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Date

Zhi David Deng
13722 Goldfinch Drive
Carmel, IN 46032

Date

Eric R. Diebold
8765 Providence Drive
Noblesville, IN 46060

ASSENT BY ASSIGNEE

The undersigned assignee of the entire interest in the above-mentioned U.S. Letters Patent No. 6,294,062 hereby assents to the accompanying DECLARATION BY INVENTORS. The undersigned, whose title is supplied below, is empowered to act on behalf of Roche Diagnostics Corporation.

Roche Diagnostics Corporation

By: _____
Printed Name: D. Michael Young
Title: Chief Patent Counsel of
Roche Diagnostics Corporation
Indianapolis, Indiana

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STATEMENT UNDER 37 CFR 3.73(b)

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Roche Diagnostics Corporation hereby certifies that it is the assignee of the entire right, title, and interest in the patent application identified above by virtue of an Assignment from the inventors of said patent application to Roche Diagnostics Corporation, which is recorded at Reel 10439, Frame 0088 and at Reel 10435, Frame 0721.

The undersigned has reviewed all of the documents in the chain of title of the patent application identified above and, to the best of the undersigned's knowledge and belief, title is in Roche Diagnostics Corporation. The undersigned, whose title is supplied below, is empowered to act on behalf of Roche Diagnostics Corporation.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the

United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Roche Diagnostics Corporation

By: _____

Printed Name: D. Michael Young

Title: Chief Patent Counsel of
Roche Diagnostics Corporation
Indianapolis, Indiana